Tara Chand vs. Civil Judge(J.D.), East, Bhilwara & Anr.
(S.B.CIVIL WRIT PETITION NO.7116/07)

Dated : 30.10.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. Arvind Samdariya, for the petitioner.

This writ petition is directed against order dated 23.8.2007 passed by Civil Judge (J.D.), East, Bhilwara in civil suit no. 54/96, whereby an application preferred by the defendant-petitioner for appointment of the Commissioner for inspection of the site so as to obtain a report regarding the present position of the suit premises and adjoining shop available with the plaintiff-respondent , has been rejected.

Learned counsel for the petitioner contends that the application was preferred by the defendant-petitioner for the appointment of the Commissioner for inspection of the suit premises and the adjoining shop with an intention to give an alternative offer that he may be given the shop wherein S.T.D. booth is being operated, in lieu of the suit premises. The learned trial court while deciding the application has observed that the adjoining shop is not subject matter of the dispute between the parties in the suit. There exist no pleadings in this regard and no issue has been framed.

It is to be noticed that the final arguments in the matter were already concluded but, due to transfer of the presiding officer of the court , the judgment could not be pronounced. At

the stage of final arguments,the application preferred by the plaintiff for appointment of the Commissioner so as to bring additional evidence on record appears to be a delaying tactics.

In my considered opinion, the learned trial Court has committed no error in passing the impugned order rejecting the application preferred by the petitioner,for the reasons recorded therein.

The writ petition is therefore, dismissed. No order as to costs.

(SANGEET LODHA),J.